FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2014 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

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Mr.Surel S.Shah for the petitioner.

Mr.Dilip Bodke for Respondent No.1.

Mr.P.S.Hingorani, APP for Respondent/State.

Coram : R.S.Mohite,J

Date : 25.01.2006.

PC

1. Heard. Rule. By consent, rule made returnable forthwith.

2. The petition impugns an order dated 5.8.2005 passed by the JMFC, Madha, rejecting application at Exh.44 preferred by the petitioner for offence punishable under Section 138 of N.I.Act. By his application Exh.44 filed in the trial Court the petitioner sought documents which were the withdrawal slip dated 26.4.2004 in respect of account no.345 belonging to the Complainant.

Second document was 3 withdrawal slips in respect of account nos.516, 1089, 582 belonging to 3rd party. Some other documents were also sought but they did not pertain specifically to the dates 26.4.2004 and 27.4.2004 which are the two relevant dates when the deposit and withdrawal are said to have occured from the account of the accused. The complainant is admittedly the Vice-president of the Madheshawari Urban Co-operative Bank where various accounts mentioned aforesaid are kept. It is the case of the accused that the deposit and withdrawal from his own account is fraudulently managed. In my view, it would not be improper to confront Vice-president of the bank who is in the witness box and for this purpose these documents will be required. No prejudice would be caused to the respondent no.1 who is the original Complainant if he confronted with the documents from the bank of which he is a Vice-president. In the circumstances, the petition is partly allowed. The order passed by

the JMFC dated 5.8.2005 is set aside and is modified and it is directed that the application Exh.44 is allowed in so far as the documents mentioned in prayer clauses-1(a) and 1(b) of the said application. Prayer clauses-1(c) and 1(d) are rejected. Rule made absolute in the aforesaid terms. The trial Court is directed to dispose of the trial as expeditiously as possible and in any case within a period of six months from today.

(R.S.Mohite,J)